

By Senator Altman

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1 A bill to be entitled
2 An act relating to sentencing in capital felonies;
3 amending ss. 921.141 and 921.142, F.S.; requiring that
4 an advisory sentence of death be made by a unanimous
5 recommendation of the jury after a defendant's
6 conviction or adjudication of guilt for a capital
7 felony or capital drug trafficking felony; requiring
8 the court to instruct the jury that, in order for the
9 jury to recommend to the court that the death penalty
10 be imposed, the jury must find that sufficient
11 aggravating circumstances exist which outweigh the
12 mitigating circumstances found to exist; requiring the
13 court to instruct the jury that each aggravating
14 circumstance used to support the jury's recommendation
15 of death must be proven beyond a reasonable doubt by a
16 unanimous vote; requiring that the court provide a
17 special verdict form specifying each aggravating
18 circumstance found; limiting the court's findings
19 concerning aggravating circumstances to those found by
20 the jury; providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Subsections (2) and (3) of section 921.141,
25 Florida Statutes, are amended to read:

26 921.141 Sentence of death or life imprisonment for capital
27 felonies; further proceedings to determine sentence.—

28 (2) ADVISORY SENTENCE BY THE JURY.—After hearing all the
29 evidence, the jury shall deliberate and render an advisory

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30 sentence to the court, based upon the following matters:

31 (a) Whether sufficient aggravating circumstances exist as
32 enumerated in subsection (5);

33 (b) Whether the aggravating circumstances found to exist
34 are sufficient to outweigh the mitigating ~~sufficient mitigating~~
35 ~~circumstances exist which outweigh the aggravating~~ circumstances
36 found to exist; and

37 (c) Based on these considerations, whether the defendant
38 should be sentenced to life imprisonment or death.

39
40 Effective for sentencing proceedings commencing on or after July
41 1, 2016, an advisory sentence of death must be based on a
42 unanimous vote for death by the jury. The verdict of the jury
43 must be in writing, and an advisory sentence of death must
44 certify that the vote for death was unanimous. The court shall
45 instruct the jury that, in order for the jury to recommend to
46 the court that the death penalty be imposed, the jury must first
47 find that sufficient aggravating circumstances exist which
48 outweigh the mitigating circumstances found to exist. The court
49 shall further instruct the jury that each aggravating
50 circumstance used to support the jury's recommendation of death
51 must be proven beyond a reasonable doubt as found by a unanimous
52 vote. The court shall provide a special verdict form that
53 specifies which, if any, aggravating circumstances were found to
54 exist and certifies that the vote for each aggravating
55 circumstance found was unanimous.

56 (3) FINDINGS IN SUPPORT OF SENTENCE OF DEATH.—

57 Notwithstanding the recommendation of ~~a majority of the jury,~~
58 the court, after weighing the aggravating and mitigating

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59 circumstances, shall enter a sentence of life imprisonment or
60 death, but if the court imposes a sentence of death, it shall
61 set forth in writing its findings upon which the sentence of
62 death is based as to the facts:

63 (a) That sufficient aggravating circumstances exist as
64 enumerated in subsection (5);~~7~~ and

65 (b) That the aggravating circumstances found to exist are
66 sufficient to outweigh the mitigating circumstances found to
67 exist ~~there are insufficient mitigating circumstances to~~
68 ~~outweigh the aggravating circumstances.~~

69
70 In each case in which the court imposes the death sentence, the
71 determination of the court must ~~shall~~ be supported by specific
72 written findings of fact based upon the circumstances in
73 subsections (5) and (6) and upon the records of the trial and
74 the sentencing proceedings, except that the court's
75 consideration and finding of any fact based upon the
76 circumstances in subsection (5) is limited to those unanimously
77 found to exist by the jury. If the court does not make the
78 findings requiring the death sentence within 30 days after the
79 rendition of the judgment and sentence, the court shall impose
80 sentence of life imprisonment in accordance with s. 775.082.

81 Section 2. Subsections (3) and (4) of section 921.142,
82 Florida Statutes, are amended to read:

83 921.142 Sentence of death or life imprisonment for capital
84 drug trafficking felonies; further proceedings to determine
85 sentence.—

86 (3) ADVISORY SENTENCE BY THE JURY.—After hearing all the
87 evidence, the jury shall deliberate and render an advisory

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88 sentence to the court, based upon the following matters:

89 (a) Whether sufficient aggravating circumstances exist as
90 enumerated in subsection (6);

91 (b) Whether the aggravating circumstances found to exist
92 are sufficient to outweigh the mitigating ~~sufficient mitigating~~
93 ~~circumstances exist which outweigh the aggravating~~ circumstances
94 found to exist; and

95 (c) Based on these considerations, whether the defendant
96 should be sentenced to life imprisonment or death.

97
98 Effective for sentencing proceedings commencing on or after July
99 1, 2016, an advisory sentence of death must be based on a
100 unanimous vote for death by the jury. The verdict of the jury
101 must be in writing, and an advisory sentence of death must
102 certify that the vote for death was unanimous. The court shall
103 instruct the jury that, in order for the jury to recommend to
104 the court that the death penalty be imposed, the jury must first
105 find that sufficient aggravating circumstances exist which
106 outweigh the mitigating circumstances found to exist. The court
107 shall further instruct the jury that each aggravating
108 circumstance used to support the jury's recommendation of death
109 must be proven beyond a reasonable doubt as found by a unanimous
110 vote. The court shall provide a special verdict form that
111 specifies which, if any, aggravating circumstances were found to
112 exist and certifies that the vote for each aggravating
113 circumstance found was unanimous.

114 (4) FINDINGS IN SUPPORT OF SENTENCE OF DEATH.—

115 Notwithstanding the recommendation of ~~a majority of the jury,~~
116 the court, after weighing the aggravating and mitigating

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117 circumstances, shall enter a sentence of life imprisonment or
118 death, but if the court imposes a sentence of death, it shall
119 set forth in writing its findings upon which the sentence of
120 death is based as to the facts:

121 (a) That sufficient aggravating circumstances exist as
122 enumerated in subsection (6);~~7~~ and

123 (b) That the aggravating circumstances found to exist are
124 sufficient to outweigh the mitigating circumstances found to
125 exist ~~there are insufficient mitigating circumstances to~~
126 ~~outweigh the aggravating circumstances.~~

127
128 In each case in which the court imposes the death sentence, the
129 determination of the court must ~~shall~~ be supported by specific
130 written findings of fact based upon the circumstances in
131 subsections (6) and (7) and upon the records of the trial and
132 the sentencing proceedings, except that the court's
133 consideration and finding of any fact based upon the
134 circumstances in subsection (6) is limited to those unanimously
135 found to exist by the jury. If the court does not make the
136 findings requiring the death sentence within 30 days after the
137 rendition of the judgment and sentence, the court shall impose
138 sentence of life imprisonment in accordance with s. 775.082, and
139 the defendant is ~~that person shall be~~ ineligible for parole.

140 Section 3. This act shall take effect July 1, 2016.